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Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

Fourteenth session

SUMMARY RECORD OF THE 355th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 14 January 1997, at 10 a.m.

Chairperson: Mrs. BELEMBAOGO

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CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Initial report of Panama (continued)

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GE.97-15080 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Panama (continued) (HRI/CORE.1/Add.14/Rev.1; CRC/C/8/Add.28; CRC/C/Q/PAN.1)

1. At the invitation of the Chairperson, the Panamanian delegation resumed its place at the Committee table.

2. Mrs. GRAHAM DE SAMPSON (Panama), referring to the family environment and alternative care, said she wished to point out first that, according to the 1990 census, 20 per cent of the women in her country were heads of family. The average Panamanian family consisted of 4.4 people. Thanks to the National Council on the Family and Children and an information and documentation centre set up under the Family Code, it would no doubt be possible to carry out a better statistical evaluation of the situation of families. Article 377 of the Family Code recognized rights to allowances, including the right to maternity benefit. Article 609 stipulated that the number of children should be taken into consideration in calculating income tax and articles 611 and 612 indicated the public and private bodies that could provide help to families in need.

3. As far as the conformity of Panamanian legislation with the Convention was concerned, it should be noted that articles 316-319 of the Family Code conferred parental authority on both parents and laid down the rights and duties of parents towards their children, as well as the obligations of children towards their parents, with due regard for the best interests of the child. Furthermore, in order to give effect to the provisions of article 59 of the Constitution, which provided for the protection of the family, article 574 of the Family Code specified a number of institutional and practical measures aimed at assisting priority groups in the population. Articles 670 and 671 also contained provisions concerning family education and in particular sex education.

4. With regard to international adoption, Panama was planning to ratify the 1993 Hague Convention, for since the entry into force in 1994 of new legislation on the family, there was no longer any conflict between the provisions of the Civil Code and those of the Convention. Efforts were also made to combat trafficking in children for purposes of adoption and there were no adoption agencies in Panama. The authorities saw to it that candidates for international adoption met all the conditions required in their country of origin.

5. Lastly, article 502 of the Family Code made it compulsory to denounce instances of maltreatment. Article 503 provided for the immediate custody of the child victim in such cases; whereas the measures required in the longer term were set forth in article 504. Act No. 27 of June 1995 established penalties for the offences of violence within the family and the maltreatment of children and provided that the relevant articles of the Criminal Code and Judicial Code should be aligned accordingly. Moreover, the Act laid down a

penalty of one to six years' imprisonment for a person maltreating a child, while any official who failed to report a case of maltreatment to the authorities was liable to a fine of 50 to 160 days.

6. Mrs. BADRAN said she was surprised that the concepts of respect and obedience in child-parent relations were the subject of legislative provisions in the State party. For in her view any loving and affectionate relationship should imply respect. Moreover, one should not destroy children's creativity nor hinder self-expression in the name of obedience. Was it really in the best interests of children to require them to obey their parents?

7. She would also like to know whether the child-care facilities available to working mothers were free of charge and how the staff employed there were trained. Lastly, she had noted that according to the Civil Code persons who had committed an offence could be apprehended by any individual and handed over to the authorities. She would like to know to what types of offence that provision applied.

8. Mr. HAMMARBERG observed that procedures existed and measures were provided for combating domestic violence. He would like the delegation to clarify, however, whether the legislative provisions prohibiting all forms of maltreatment also applied to domestic violence and whether they were reserved for grave forms of violence, as in certain States parties. How were the trends towards domestic violence assessed and what measures were taken to encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, as prescribed in article 17 (e) of the Convention?

9. Mrs. KARP wondered, like Mrs. Badran, about how to strike a balance between the principle of children obeying their parents on the one hand, and the new concept of children's rights on the other hand. She would also like to know whether the family education programmes mentioned by the delegation were carried out systematically by the authorities or organized when required with the assistance of NGOs. She also welcomed the fact that the Panamanian authorities recognized the problem of domestic violence. However, was there a special help service for the victims and what measures were taken to assist the victims of sexual abuse within the family in explaining what had happened to them and testifying before the courts? Did law-enforcement officials receive special training to deal with such cases? How many parents had been tried and sentenced for violence against their children and how was the problem viewed by the public at large?

10. Mrs. SANTOS PAIS recalled that two years previously the Committee had considered the question of the age of marriage. Perhaps the Secretariat might provide the delegation with information on the subject, with a view to the abolition in the State party of any differentiation between boys and girls in such matters.

11. Moreover, the notion of the best interests of the child must be taken into consideration as a matter of routine, and not only in exceptional cases or when there was abuse. In the case of adoption, too, the principle should be applied in general, and not only when the adopted child's name had to be changed, as had been mentioned the previous day. Still on the subject of

adoption, she wondered to what extent the clauses of Panamanian legislation providing for the amendment of civil status records in the event of adoption were compatible with article 7 of the Convention, which stipulated that the child had the right to know his or her parents. In certain countries, for instance, such information was confidential, but the children concerned had access to it upon reaching the age of majority.

12. As far as fundamental freedoms were concerned, she regarded the existence of an overall constitutional legislative framework as useful, so long as that framework was accompanied by legislation that contained more specific provisions on the child: by way of example, with regard to freedom of association, the law must specify the conditions in which children could set up associations. As for freedom of religion, she had noted that parents could decide not to send their children to catechism lessons run by schools; however, she would like to know as of what age children were free to decide to stop going to the catechism classes that parents had obliged them to attend.

13. With regard to the child-parent relationship, the State party's report and replies portrayed a somewhat conservative situation. Aside from the obligation on the child under article 317 of the Family Code to obey and respect his parents, perhaps some happy medium could be found between parental authority and the rights of the child. Had the Panamanian authorities given thought to the problem from that perspective and was there anything in the law that might bring some change in the situation? For it seemed that the provisions of the Family Code relating to maltreatment and violence within the family were basically of a repressive nature, and that the State party might be able to do more in the way of prevention, for example by prohibiting corporal punishment, which was not compatible with article 19 of the Convention.

14. Mrs. SARDENBERG said that she would pick up on the questions put by other Committee members concerning the respect for a child's right to privacy and the necessary balance in the child-parent relationship. On the subject of domestic violence, she would like to know whether the State party had ratified the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women. Moreover, at the institutional level, what was the general attitude of the police force towards young people? Was the 9 p.m. curfew for children still applied? Could the delegation indicate whether investigations were undertaken in the event of a breach of that curfew?

15. On the question of the fight against poverty, she would like to know about specific programmes to help the most deprived families and how such programmes were evaluated. What assistance was given to families as regards education and was provision made for special aid to single-parent families?

16. Miss MASON said she wished to make some remarks about the situation of refugee children and the problem of family reunification, as referred to in article 10 of the Convention. For she noted that according to paragraph 190 of the report there was a National Office for Refugees in Panama, which allowed refugee children to enjoy some of the rights recognized in the Convention. She noted, too, that persons seeking refugee status for the purposes of family reunification must prove to the authorities that they could support their family. What of children who could not take care of their

parents? To what extent were the provisions in question compatible with article 17 of the Panamanian Constitution, which dealt with the protection of individuals? Could one really consider that Panamanian and refugee children had equal rights with regard to education where the latter, for instance, had to procure their own school supplies? In short, what concrete measures were taken to guarantee the rights of refugee children under both the Panamanian Constitution and the Convention?

17. Regarding sexual abuse within the family, she would like to know about incest in Panama. What structures or services were there for the victims and perpetrators of incest? Was there any additional "victimization" through the separation of the child from his family? What was the attitude of law-enforcement officials towards the phenomenon and what specific training were they given? Lastly, was the special police force for children bound to take action on such problems?

18. Mrs. EUFEMIO asked whether a single person could adopt a child and, if so, what measures were taken to ensure that the child would not be adopted by a person with paedophile tendencies, given that according to article 174 of the Civil Code, the adopted child must be of the same sex as the adoptive parent. She also wondered whether there might not be some conflict between article 187 of the Civil Code, which stipulated that it was the father that exercised parental authority, and article 18 of the Convention, whereby both parents shared responsibility for the upbringing of their child.

19. Mr. KOLOSOV observed that according to paragraph 65 of the report all Panamanians over 18 years of age were citizens of the Republic. He asked about the situation of children under the age of 18 with regard to nationality.

20. Mrs. AROSEN DE TROITIÑO (Panama) said that the obligation upon children to obey their parents laid down in the Family Code did not mean that parental authority was limitless, for according to the Code parents were obliged to see to the well-being of their children and to treat them with respect. Moreover, the competent authorities saw to it that parents did not abuse the powers conferred on them and fulfilled their duties towards their children.

21. As far as marriage was concerned, it was worth noting that girls between 14 and 18 years of age and boys between 16 and 18 years of age could not contract a marriage without their parents' consent. In that connection the Panamanian delegation would like the Committee to provide it with documents explaining the reasons why the minimum age for marriage should be the same for boys as for girls.

22. Regarding "schools for parents", there was a department in the Ministry of Education which had special responsibility for promoting the activities offered in that connection. Moreover, a national NGO, supported by the World Association for the School as an Instrument of Peace, was carrying out an education programme for parents under which children took part in a daily radio programme. Furthermore, whenever a national or international conference concerning children was organized in Panama, children were invited to make statements, as for example in September 1996 during the ninth world congress on family law.

23. As for adoption, unsuccessful efforts had been made to rescind the provision requiring the adoptive child to be of the same sex as the adoptive parent. That failure was attributable to the fact that Panamanian legislation had long been dominated by Roman law and the Code Napoléon. However, the adoptive parent was rarely single: only two cases had been recorded in 1996. In any case, all adoptive parents, whether couples or single persons, were very thoroughly screened before being given custody of a child. Moreover, paedophilia was not a problem in Panama.

24. The adoptive child had the right to know the identity of his or her natural parents, which was recorded in the civil status register. However, by law it was for the adoptive parents to decide when was the appropriate moment to inform the child of his or her true origin.

25. With regard to citizenship, article 125 of the Constitution stated that one must be over the age of 18 to have the right to vote, to stand as a candidate at elections, and to be vested with legal and contractual capacity. Young persons under the age of 18 could of course exercise all the other rights set forth in the Constitution, and, in particular, had the right to participate in family, school, social and cultural life, as well as the right to be heard and to exercise their fundamental freedoms, inter alia, in youth associations. In that regard, there was a department of the Ministry of Education specifically responsible for student affairs. Its tasks included encouraging the establishment of student associations and assisting them in organizational matters and in editing a newspaper in which they could express their views.

26. With regard to refugees, in 1995 Panama had recorded only two cases of unaccompanied child refugees. In 1996 a group of Colombian families fleeing the guerrilla war had taken refuge in Panama, but had been swiftly resettled in another region of Colombia following cooperation between the Panamanian and Colombian authorities. It could thus be said that there was no refugee problem in Panama. However, even if such a problem had existed, refugee children would certainly not be obliged, in the event of family reunification, to prove that they were able to support their parents.

27. Mrs. GRAHAM DE SAMPSON (Panama) said that the Labour Code obliged enterprises to establish day-care centres for their employees' children of pre-school age. The Minister of Labour and Social Welfare was also implementing a programme to set up nurseries in which children of working parents were looked after by qualified staff. Furthermore, the State ensured that refugee children - who were very few in number - received normal schooling.

28. The law defined ill-treatment as any act or omission likely to harm the child's physical or mental health. The Ministry of Education had publicized that provision widely, stressing the need to distinguish between punishments and ill-treatment, the latter being reprehensible, however slight. At the legal level, the juvenile judge could if necessary separate children subjected to ill-treatment from their families and place them in a foster home, or else in a residence where they would be looked after by qualified staff. Thanks to the campaigns by governmental organizations and NGOs to raise public awareness of ill-treatment of children, people no longer hesitated to report the

perpetrators of such acts. For that purpose, free telephone hot lines had been made available to the public by the National Council for the Family and Minors and by several NGOs.

29. The law also provided for sanctions against those media broadcasting programmes contrary to morals or constituting an incitement to commit violence or other offences. Incest was a criminal offence. Persons committing such acts were liable to imprisonment and child victims could be separated from the parent committing the offence. However, her delegation had no statistics on the matter.

30. She confirmed that Panama had indeed ratified the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women. With regard to the age from which children could choose their religion, she said that the Family Code authorized children to voice their opinions from the age of 7 in certain legal areas and that, in the absence of specific provisions, one could assume that it was from that age that children could express their choice in religious matters.

31. Mrs. KARP asked whether the principles of the Convention were disseminated and dialogue between children and parents encouraged in the framework of the "school for parents". Furthermore, was there any way a child who was the victim of incest or other forms of domestic violence could be protected in court when making his or her statement? Finally, she wondered whether there were hostels for battered women in Panama.

32. Mr. KOLOSOV asked what distinction the Panamanian authorities made between nationals and citizens. Recalling that article 7 of the Convention set forth a child's right to acquire a nationality, he asked how nationality could be acquired in Panama.

33. Mr. HAMMARBERG, referring to the previously mentioned articles 500 and 501 of the Family Code, asked for clarification as to what exactly was meant by ill-treatment on the one hand and correction on the other. He hoped that no kind of ill-treatment was tolerated under the guise of general punishment. Furthermore, how did the authorities monitor the effective implementation of article 485 of the Family Code and was the impact of the provisions evaluated?

34. The situation of child refugees was perhaps not as clear-cut as the delegation had described. Even if there were only a few child refugees, it was absolutely essential to set up special procedures to guarantee that they had legal representation when they were in the process of applying for the status of refugee or asylum-seeker. He was alarmed at the report of the Office of the United Nations High Commissioner for Refugees (UNHCR) that a group of Colombian refugees had been sent back to their country, in defiance of all existing international agreements on the protection of refugees and without consulting UNHCR or the persons concerned in any way. Finally, he asked whether, in the framework of the policy of family reunification, there were any specific provisions allowing children to bring a member of their family to Panama and relieving them of the obligation to guarantee financial support for the relative.

35. Mrs. AROSENA DE TROITIÑO (Panama) said that every child born on Panamanian territory or of Panamanian parents acquired Panamanian nationality at birth, according to the principles of jus soli and jus sanguinis. A foreign child, if adopted before the age of 7, also automatically acquired Panamanian nationality. The term "citizenship" referred to the exercise of civil and political rights from the age of 18.

36. With regard to the previously mentioned case of the Colombian refugees, it should be noted that the Church had acted as mediator, which could explain why UNHCR had not been consulted. The Panamanian delegation, which shared the Committee's concern, promised to check that statutory procedures had been respected.

37. Through the Ministry of Labour and Social Welfare, the authorities granted work permits to foreigners who went to Panama to be with their family so as to enable them to support themselves as quickly as possible. Finally, sexually abused children who had to testify in court enjoyed special protection. Police officers, investigators, and members of the legal profession were given special training to help them deal with such cases in the best possible conditions. Furthermore, children did not have to testify except when absolutely necessary.

38. Mrs. GRAHAM DE SAMPSON (Panama), replying to another series of questions, said that there were indeed hostels that took in battered women and their children. Some of them were run by NGOs and others were the result of Government initiatives. There was a difference between the concept of correction and that of ill-treatment, be it physical or mental, which was made clear in the Family Code. Information campaigns had been launched in the media, in agreement with various ministries, to raise awareness among the public and various categories of staff working with children of the problem of the ill-treatment of children.

39. Turning back to the list of issues (CRC/C/Q/PAN.1), she pointed out that measures had indeed been taken to broaden the mandate of Community Health Promoters and allow them to work directly with the families of disabled children (issue 34). A National Council for Handicapped Children had been set up and brought together representatives of governmental bodies, NGOs and organizations for disabled people. The Council was part of a Regional Council for Disabled Children which included representatives of Central American countries who drafted policies, laws and strategies for disabled children. The rehabilitation centres for disabled people, which worked closely with the Ministry of Health, provided services for disabled children at the community level. Several NGOs were also working in that field.

40. The Child Health Programme (issue 37) aimed to improve the health of children from birth until the age of 5. In 1995, the demographic pyramid diagram for Panama had displayed the broad base characteristic of developing countries, with children under 15 years of age accounting for 33.5 per cent of the total population. Data from the Department of Health and Medical Statistics of the Ministry of Health relating to

services provided for children under 5 years of age showed that there was a 94.7 per cent success rate in terms of target growth for children under 1 year of age, a 40.6 per cent success rate for children between 1 and 4 years of age and a 22.3 per cent success rate for children between the ages of 5 and 14. The latter category of children accounted for some 22 per cent of the total population of the country and 90 per cent of them were in primary or secondary education.

41. Measures had been taken to ensure that all children had access to proper health care (including care by doctors), particularly in rural areas and among indigenous communities (issue 38). Eighty per cent of the child population had access to health services thanks to a training policy for health workers and the building up of infrastructure, the introduction of a system to ensure that supplies could be delivered to areas that were difficult to reach and that "medical tours" were carried out, and large-scale vaccination campaigns.

42. With regard to illiteracy (issue 42), she said that the Ministry of Education had decided to meet the challenge of the new millennium by encouraging the Government and institutions to work towards improving education. In that spirit, Act No. 34 of 6 July 1995 had been adopted, amending Education Organization Act No. 47 of 1946. According to the most recent census in 1990, there were 189,189 illiterate people aged 10 years and above, amounting to 10.7 per cent of Panama's total population. The Ministry of Education had taken a host of measures pursuant to article 4 (b) and (c) of Act No. 34 to combat illiteracy among women and indigenous people. Between 1990 and 1993, a literacy and vocational training programme had reached 9,643 people. Indigenous alphabets had been compiled to improve indigenous populations' access to basic education, and three new training centres had been set up in 1996. In addition, the United Nations Children's Fund (UNICEF) was providing support for a literacy programme for 980 people, including 450 women.

43. With regard to measures that had been taken to ensure regular school attendance (issue 43), she said that an increase in funds had helped develop the infrastructure needed to ensure a more favourable school environment. New methods had been introduced with regard to reading, writing and arithmetic and were targeted particularly at children in rural and indigenous schools. In addition, the State was subsidizing school canteens and all pupils were given textbooks for their basic education.

44. With regard to the aims of the education system (issue 46) she said that education in Panama had been democratized, and that 75 per cent of children between the ages of 4 and 5, 99 per cent of 6 to 11-year-olds and 90 per cent of children between 12 and 14 years now received schooling. The Government was trying to reduce illiteracy to no more than 3 per cent of the population. A new curriculum for primary and secondary education was being used in all the country's educational centres and a national system to assess the quality of education had been set up. Modern planning and management helped decentralize schools and make them more efficient.

45. Mrs. AROSENA DE TROITIÑO (Panama) said that children deprived of liberty (issue 51) were dealt with under a special court for children. She gave detailed statistics relating to the 1990s concerning the number —

of such children. For example, in 1990, out of 1,824 children and adolescents deprived of liberty, 1,503 (82.4 per cent) had been institutionalized for violating criminal law and 321 (17.6 per cent) for other reasons. In 1996, out of 3,138 children and adolescents deprived of liberty, 2,448 (78.8 per cent) had been institutionalized for violating criminal law and 690 (22 per cent) for other reasons. Statistics were also available on the breakdown of such children and adolescents according to age, up to 17 years (the minimum age for absolute responsibility). The increase in the number of institutionalized children in recent years was attributable to the fact that children below the age of 17 did not have the right to be out on the street after 9 p.m. and were thus taken into shelters for their protection.

46. The minimum age of employment (issue 54) was 14 years under article 66 of the Panamanian Constitution and 15 years under the International Labour Organization (ILO) Minimum Age Convention, 1973 (No. 138). The Government was looking into the possibility of amending article 66 of the Constitution and the relevant provisions of the Labour Code so as to enable it to accede to the ILO Minimum Age Convention, 1973 (No. 138).

47. With regard to measures to combat the sale and use of drugs by children (issue 55), she said that the national commission responsible for studying and preventing drug-related crimes had been set up under Act No. 23 of 30 December 1986, subsequently amended by Act No. 13 of 27 June 1994. The commission, which was made up of 11 representatives of various ministries, ran a preventive programme and a host of media campaigns. One programme entitled "The Panama Coalition", which had been set up under the auspices of the First Lady of Panama, was also designed to combat the drug problem and young persons' reception centres had been established for that purpose.

48. With regard to child prostitution, she said that the police department dealing with children carried out investigations into the children involved and provided protection for them. An information campaign was under way in Panama, with the support of UNICEF, to assess the scale of the phenomenon.

49. Mrs. KARP asked whether the existence of military bases and a free zone had an impact on child prostitution and whether measures to punish adults who encouraged children under the age of 18 years to engage in to prostitution were provided for, in accordance with the recommendations made at the Congress in Stockholm. She also asked whether abortion was still prohibited, even when pregnancy endangered the health of young girls.

50. Mrs. SANTOS PAIS said she was deeply concerned at the situation of indigenous populations, whose mortality, malnutrition and illiteracy rates were much higher than those of the rest of the population. She also regretted the fact that 80 per cent of children under 14 years of age were involved in domestic or agricultural labour, which violated the right to education set forth in article 32 of the Convention. Finally, with regard to justice for minors, she was surprised that children who had not broken the law could be deprived of liberty. In her opinion, the Government needed to pay greater attention to guaranteeing children's rights.

51. Mr. KOLOSOV asked whether there were alternative options to depriving children of liberty, as provided for in the Convention. He also asked why there were no statistics relating to child offenders between 17 and 18 years of age.

52. Mrs. BADRAN said she hoped that the budget was divided evenly between sectors, particularly in the areas of health and education. She asked whether the increase in the number of private schools was due to the poor quality of State schools and whether there were social workers in schools, particularly to help the children of indigenous populations. Finally, given the high rate of unemployment in the country, she wondered how far it would be possible to end child labour.

The meeting rose at 1.05 p.m.

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COMMITTEE ON THE RIGHTS OF THE CHILD

Fourteenth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)*
OF THE 356th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 14 January 1997, at 3 p.m.

Chairperson: Mrs. BELEMBAOGO

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CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Initial report of Panama (continued)

* No summary record was prepared for the second part (closed) of the meeting.

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GE.97-15088 (E)

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Panama (continued) (HRI/CORE/1/Add.14/Rev.1; CRC/C/8/Add.28; CRC/C/Q/PAN.1 (list of issues); written replies by the Government of Panama with no document symbol, in Spanish)

1. At the invitation of the Chairperson, the delegation of Panama resumed its place at the Committee table.

2. Mr. MOMBESHORA said that the figures given in paragraph 12 of the core document (HRI/CORE/1/Add.14/Rev.1) seemed to indicate that the family planning services were ineffective. He would like to know, therefore, whether family planning was accepted by fertile men and women and whether the services encountered any obstacles, for example, of a religious nature.

3. Paragraph 14 of the core document stated that AIDS had increased gradually. He wondered whether there were any statistics available on the prevalence of AIDS and its modes of transmission. He presumed that all the health centres were properly equipped to deal with all the cases of AIDS that occurred. Malaria had also been mentioned as a problem, and he asked whether it was a more serious one than AIDS in terms of morbidity and mortality.

4. The initial report stated that Panama had private and public health systems (CRC/C/8/Add.28, para. 118) but it gave no comparative figures. He would like to be told what percentage of the population was covered by each system and whether one had any advantages over the other.

5. Paragraph 138 of the report contained a list of programmes for the implementation of article 24 of the Convention but without any details. He asked whether the programmes were already in place and whether any problems had been encountered.

6. Nutrition was a vital issue and, while measures designed to provide short-term relief for target groups had been mentioned, it was unclear whether there was a long-term strategy. He would welcome information about the recipients of the Food Aid Programme and how they were selected and whether they received distributions of food or cash to purchase food.

7. The CHAIRPERSON invited the delegation of Panama to reply to the questions put by Mr. Mombeshora and the other questions that had not previously been answered.

8. Mrs. GRAHAM DE SAMPSON (Panama) said that the United States military bases had certainly had a considerable impact on the prevalence of prostitution, but they were scheduled to close in the year 2000. The free zones closed at 6 p.m., and thus did not contribute to the prostitution problem. The Penal Code provided penalties for crimes connected with child prostitution, particularly "the corruption of minors".

9. She did not have available the precise figures for the budgetary allocations for education and health, but they represented a large proportion

of social expenditure. She did have disaggregated figures for the birth and child-mortality rates, figures that were used in the planning of short- and long-term education and health programmes.

10. The high incidence of child labour was a worrying phenomenon. There was great resistance to the termination of child labour in rural areas, where it made an important contribution to the family budget, despite considerable efforts over the years to change the firmly established social attitudes and ensure that children did not drop out from education. A national committee was being established to promote and monitor the activities of the International Programme on the Elimination of Child Labour (IPEC). The Ministry of Labour and Social Welfare had also established special units to supervise enterprises and ensure that the child labour legislation was enforced.

11. Panama's family planning services were run by the Ministry of Health in centres throughout the country which were manned by trained personnel. Services were also provided by a non-governmental organization (NGO) named "Aplafa". Family planning programmes had been in operation for many years and were widely accepted, but required strengthening in rural areas to overcome traditional attitudes.

12. The health centres did keep records and produce statistics on AIDS, which could be submitted to the Committee in writing. Malaria had, in the past, been a serious problem but had since been virtually eradicated. The malaria statistics could also be sent to the Committee.

13. The public health system was much more broadly based than the private one: it operated throughout the country, including the most remote areas. In addition to establishing the health centres, the Government had made considerable efforts to persuade the people to use them. "Medical tours" were also carried out by interdisciplinary teams to teach the people about the importance of caring for their health. Special efforts were being made to improve the health of the indigenous peoples, who lived mainly in rural areas.

14. Mrs. AROSEMENA DE TROITIÑO (Panama) said that children in need of protection were institutionalized only when no suitable alternative arrangements, such as foster homes, could be made. The law stipulated that institutionalization should be the last resort, and the situation of such children was regularly reviewed by a juvenile judge.

15. Detention was the last resort in the case of children in conflict with the law. The detention figure given at the previous meeting included a large number of children detained for just a day or two. Children in need of protection were housed in different institutions from children in conflict with the law. When juvenile offenders reached the age of majority at 18 years, the sentence imposed by the juvenile court was officially terminated. If they were to remain in detention they were transferred to special institutions, still under the supervision of the juvenile justice system.

16. The CHAIRPERSON invited the members of the Committee to state their conclusions concerning the discussion with the delegation of Panama.

17. Mrs. SANTOS PAIS said that, first of all, there was an urgent need for a revision of the law and enactment of a children's code, without the pejorative term "minors". There was also a need for vertical and horizontal coordination among institutions and for a specific body to be established as the focal point for consideration of children's affairs. It would be useful to have an institution concerned specifically with the collection of data on children to be used as the basis for policy-making and assessment of progress. The United Nations Children's Fund (UNICEF) could help in such an undertaking.

18. Information and education activities concerning the rights of children must continue in order to change traditional paternalist attitudes. UNICEF and, perhaps, the Centre for Human Rights and NGOs could provide assistance.

19. Panama should devote more attention to the principles of the Convention. The principle of non-discrimination could be used to persuade parliament to review the minimum age for marriage, which discriminated against girls. The best interests of the child could be cited as grounds for prohibiting the use of corporal punishment by parents, raising the age of employment of children in domestic work and agriculture, and establishing a minimum age for criminal liability.

20. A thorough reform of the juvenile justice system and legislation was required. Neighbouring Latin American countries could offer Panama some excellent models. It was important that children in need of protection should not be stigmatized by contact with the juvenile justice system. Cooperation with ILO in the matter of child labour was essential if Panama's child labour regulations were to be brought into line with article 32 of the Convention and if attitudes to child labour were to be changed.

21. The next periodic report of Panama was due in 1998. She hoped that it would show that the Committee's recommendations had been carried out and also reflect the current situation in Panama - something which the initial report had failed to do.

22. Mr. HAMMARBERG said that Panama appeared to be at a stage when it should take stock of the situation, particularly in two areas: economic and social disparities and education. Given the many persistent problems, it was necessary to assess whether the programmes and reforms were having the expected impact.

23. Some confusion had crept into the final stage of the discussion on violence: protection against depictions of violence in the media (art. 17 (e)) and protection of children from violence and abuse (art. 19) were, of course, entirely separate issues. The purpose of his question had been to obtain reassurance that the distinction drawn in the Family Code between correction and abuse would not result in a toleration of physical punishment amounting to abuse.

24. On the issue of refugees, it was important to allow refugees and asylum-seekers to state their cases in accordance with the procedure established by the United Nations High Commissioner for Refugees (UNHCR) and to ensure that interview techniques and provisions on family reunification complied with international standards.

25. Mrs. SARDENBERG said that, despite a poor start to the discussions, attributable to the fact that the initial report submitted was obsolete, the delegation of Panama had shown a commendable readiness to cooperate with the Committee and a number of positive features had emerged. Nevertheless, the overall picture was one of alarming disparities, poverty and authoritarian traditions, and it was not clear that the Government was genuinely committed to improving the situation.

26. In the first place, the rights of the child should be made an integral part of the development plans to which so much reference had been made. Secondly, the Convention should be seen, not just as an instrument for improving the practical situation on the ground, but also as a means of changing attitudes. Thirdly, the UNICEF national plan offered Panama many opportunities for achieving its goals, but the pace of change must be quickened in the areas of education and health. Lastly, she would like to have received a reply to her specific question concerning police raids and curfews.

27. Mrs. EUFEMIO said that gaps in the implementation of the Convention should form the basis for specific programmes to target problem areas in Panamanian society, formulated with the fullest possible participation at the grass-roots level. The indicators provided should include the areas of civil rights and freedoms and the family environment. It should be borne in mind that children's emotional and psychological ages were likely to deviate from their actual ages. Steps must be taken to reduce the incidence of single-parent families, as the situation of children born of unstable short-term relationships could not but be precarious.

28. Mrs. KARP urged the Panamanian authorities to promote the application of those parts of the Convention referring to participation and hearing the views of the child. Legislation should be introduced to criminalize the clients of child prostitutes, as called for by the World Congress against Commercial Sexual Exploitation of Children. The legislation banning abortion in all circumstances should be reconsidered in view of the conflict between children's right to survival and the constraints imposed by early parenthood.

29. Mr. KOLOSOV said that the Panamanian authorities should consider the possibility of acceding to other international instruments relating to children, such as the 1993 Hague Convention on the Protection of Children and Cooperation in respect to Inter-Country Adoption, the International Labour Organization (ILO) Minimum Age Convention, 1973 (No. 138), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and the Beijing Rules and Riyadh Guidelines, as well as the Convention on the Reduction of Statelessness.

30. The CHAIRPERSON said that the Committee's conclusions and recommendations would be finalized and transmitted in writing to the Government of Panama. She asked the delegation whether it had any concluding remarks to make.

31. Mrs. GRAHAM DE SAMPSON (Panama) assured the members of the Committee that her Government would take note of their recommendations and offers of assistance and would ensure that rapid progress was made in filling the gaps

that still existed in domestic legislation regarding the rights of the child. Her Government was fully aware of the need for an autonomous, specialized structure exclusively devoted to the issue of the child. The ongoing national debate on the need for specialized legislation was based on an awareness that the Family Code did not provide the necessary conditions for full implementation of the Convention's principles.

32. Mrs. AROSEMENA DE TROITIÑO (Panama) said that there was widespread recognition on the part of the authorities and in all sectors of society in Panama that police raids and curfews were inappropriate to deal with social problems, and that authoritarian decrees were unconstitutional and illegal.

33. Her delegation would welcome further information on specific measures taken by other countries to protect the rights of the child. She assured the Committee that the Panamanian authorities would continue to make every effort to close the remaining gaps in the application of the Convention.

34. The CHAIRPERSON said that the Committee was ready to provide the Government of Panama with any additional information it might request under article 45 of the Convention. The Centre for Human Rights had a data bank on the Committee's activities, which could be accessed through the Internet. She hoped that the Government would initiate immediately the process of evaluation requested by the Committee, and that its first periodic report would reflect further progress in the promotion of the rights of the child.

The public part of the meeting rose at 4.10 p.m.

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COMMITTEE ON THE RIGHTS OF THE CHILD

Fourteenth session

SUMMARY RECORD OF THE 357th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 15 January 1997, at 10 a.m.

Chairperson: Mrs. BELEMBAOGO

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CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Initial report of Myanmar

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GE.97-15175 (E)

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Myanmar [CRC/C/8/Add.9; CRC/C/Q/Mya.1 (List of issues to be taken up in connection with the consideration of the initial report of Myanmar); written replies to questions raised in the list of issues (document with no symbol distributed in the meeting room)]

1. At the invitation of the Chairperson, U Maung Kyi, U Aye, U Than Po, U Wan Maung, U Sann Maung, Daw Than Than Zin, U Nyunt Swe, U Hla Bu, Daw Nyo Nyo, U Win Naing, U Denzil Abel and U Linn Myaing (Myanmar) took a place at the Committee table.

2. The CHAIRPERSON welcomed the delegation of Myanmar on behalf of the Committee and invited it to introduce the initial report of Myanmar (CRC/C/8/Add.9).

3. U MAUNG KYI (Myanmar) said that the delegation of Myanmar, composed of representatives from the various ministries and organizations responsible for looking after the welfare of children, hoped that the dialogue with the Committee would be constructive and effective and would try to respond to any queries from the Committee.

4. In order to implement the provisions of the Convention, to which it became a party on 15 August 1991, Myanmar had promulgated the Child Law in July 1993 and had set up a National Committee on the Rights of the Child, as well as regional and local committees. Juvenile courts had also been established within Yangon division. Judges with the same powers as juvenile judges had been appointed in townships where juvenile courts had not yet been established. A programme of action was being implemented by the Departments of Health, Basic Education and Social Welfare, with close collaboration from UNICEF. Measures had also been taken to involve the whole community in the implementation of the Convention. The Department of Social Welfare had organized training classes, workshops and discussions throughout the country, and a national seminar on the Convention had been held recently. Representatives from Myanmar had also participated in seminars and workshops on the Convention organized in neighbouring countries.

5. In the culture of Myanmar, parents bore primary responsibility for the development of children. Monks and teachers were considered as moral and ethical models, and there was no discrimination between sons and daughters, both being referred to frequently as "precious jewels". The people of Myanmar were deeply religious, and religion placed on parents a duty to restrain children from vice, exhort them to virtue, train them for a profession, provide for a suitable marriage and hand over an inheritance at the appropriate time.

6. The basic unit of society was the extended family, whose members were united by very strong links of solidarity; that was why there were very few street children in Myanmar. Community solidarity in neighbourhoods and

villages also helped to keep delinquency in check. Parents who so wished could commit their children to the care of monks in monasteries, where they were taught not only to read and write but also moral values.

7. In the economic sphere, the Government and the people of Myanmar were striving to build a peaceful, prosperous and modern nation. The Government gave priority to economic development in order to raise the standard of living for the people and thus assure that the basic needs of children would be met, whether in education, health or nutrition.

8. At the political level, the Government was striving to ensure harmonious coexistence among the 135 races in the Union. Specifically, it gave priority to the development of border areas, where many of those races lived. In that regard, children living in those remote regions could become the target of traffickers, and to forestall that the Government was building schools, hospitals, roads and bridges, providing for vocational training, literacy programmes and HIV/AIDS education and strengthening border controls.

9. In conclusion, he assured the Committee that, despite the limited resources available to it, the Government of Myanmar was striving to do its utmost to better the situation of children in the country.

10. The CHAIRPERSON thanked the head of the delegation of Myanmar for his presentation and invited the members of the Committee to pose questions of a general nature.

11. Mr. HAMMARBERG pointed out that, other than the Convention on the Rights of the Child, Myanmar had not ratified any of the main human rights instruments, noting that the Government planned to remedy that state of affairs after the new constitution had been adopted. Meanwhile, perhaps, the Government could contact the various committees overseeing the application of those instruments and further facilitate the work of the Special Rapporteur on the situation of human rights in Myanmar in particular. In view of the high infant mortality rate, maternal death rate and school drop-out rate, it would be interesting to learn what proportion of its budget the State allocated to children as compared with the share earmarked for defence.

12. Mr. MOMBESHORA asked what measures were being taken to lessen the potential adverse effects on children of the economic policy being pursued by the Government, and what international instruments Myanmar planned to ratify.

13. Mrs. BADRAN asked whether studies were being carried out to assess the impact of economic policy on the most vulnerable sectors of the population, whether statistics existed on the breakdown of social expenditure by age groups and regions, whether NGOs dealing with children existed, and, if so, whether they cooperated with the Government, and, lastly, whether the National Committee on the Rights of the Child had available to it the material and human resources - particularly in the form of a secretariat - needed to coordinate the activities of the regional and local committees.

14. Mrs. EUFEMIO wished to know whether NGOs were engaged in the promotion of civil rights and preparing future parents for their parental responsibilities, whether NGOs' sphere of activities extended over the entire country, what machinery NGOs used to coordinate their activities and whether they received support from the Government.

15. It would also be useful to have further information on the numbers of social workers, doctors, nurses and teachers per head of population and on training received by people working in those categories in the area of the rights of the child. The delegation of Myanmar might also indicate what training was received by the volunteers mentioned in the report, what working relationships they had with the NGOs and public bodies and whether the results of their activities had been evaluated.

16. Mrs. SANTOS PAIS welcomed the efforts made by the Government to bring national legislation into line with the Convention, and the establishment of a National Committee to oversee the application of the Convention. She also noted with satisfaction that Myanmar had withdrawn the reservations it had made concerning some of the provisions of the Convention.

17. It would be interesting to know to what extent the State budget reflected the transition to a "new democratic nation" referred to in paragraph 124 of the report, and to have further information on the results obtained from the application of the national plan of action, specifically in remote areas and border regions, and, more generally, whether measures to foster the rights of the child had been taken to the fullest extent permitted by the resources available to Myanmar.

18. As regards information and training in relation to the Convention, it was encouraging that Myanmar had participated in several seminars or symposia on the subject, but she sought concrete information on the activities carried out to train teachers, members of the armed forces and law enforcement officials. How many courses were organized, how frequently and with what content? She also wished to know whether the text of the Convention was disseminated in all the languages of the ethnic groups, and whether there were plans to publish it in simplified form understandable to children. Would the report by the State party and the Committee's concluding observations be translated and disseminated in Myanmar?

19. Lastly, concerning NGO activities, to which Mrs. Eufemio had already referred, she wished to know whether, in addition to the NGOs enumerated on the list attached to the written replies, which had clear links with the government authorities, international or local NGOs enjoyed freedom of action in contributing to the application of the Convention.

20. Mrs. SARDENBERG said she thought the delegation's replies were a little too brief. Firstly, in general terms, it would be interesting to know how the Convention was perceived and how its application was viewed by the Government of Myanmar in the context of the process on which it had embarked to foster development, the promotion of human rights and the transition to democracy. The question of NGO participation in activities to benefit children had also been mentioned in the report and in the delegation's replies, and reference had been made to the establishment of the National Committee on the Rights of

the Child. But did the Government of Myanmar do its utmost to ensure that communities participated in the activities of the Committee? Were the activities of NGOs and the Committee evaluated? It would also be interesting to have further information on measures taken recently to publicize the Convention, as mention had been made only of initiatives taken immediately after ratification. Lastly, she wished to know whether the annual celebration of Children's Day had been set on 13 February simply because that date marked the birthday of the country's leader, General Aung San (para. 20 of the report), and what was the link between those celebrations and the practical application of the Convention.

21. Mrs. KARP said that in its report and its replies, the State party had described the legal framework governing the rights of the child and clearly outlined the difficulties it faced, but that the information concerning the actual application of the rights of the child in Myanmar was inadequate. One could not help wondering how the Convention could be applied in a country where respect for and the promotion of human rights in general were not yet fully assured. It was vital to emphasize that fundamental rights were indivisible and that it was not acceptable to set certain rights above others. What, then, was the status of legislation relating to the rights of the child vis-à-vis legislation in other areas, in particular the Citizenship Law, which drew a distinction between different categories of citizens, as well as laws on illegal associations, censorship, etc.?

22. She also sought information concerning the actual authority of the National Committee and the regional and local committees on the rights of the child. Did those bodies enjoy decision-making powers and financial resources? What was their relationship with the local offices of the State Law and Order Restoration Council (SLORC)? Lastly, since, according to the list of NGOs attached to the written replies, many such organizations had yet to receive official recognition, what criteria had to be met to obtain NGO status in Myanmar, and what were the differences between the organizations which had yet to obtain such status and the others?

23. Miss MASON said that she was still concerned at the situation of children in Myanmar, despite the information supplied by the delegation. In view of the highly diverse population of the country, which was composed of 135 ethnic groups, there was a need first of all to provide a better explanation of the provisions of the Citizenship Law, which drew a distinction between full citizens, associate citizens and naturalized citizens, indicating to what extent individuals in the different categories could use their own language and enjoy equal treatment. Without such prior explanations, she found it very difficult to understand how the realization of the rights of the child was guaranteed in Myanmar.

24. Article 41 of the Convention provided that nothing in the Convention should affect any provisions which were more conducive to the realization of the rights of the child and which might be contained in the law of a State party or international law in force for that State. It was true that a Child Law had been adopted in Myanmar, but the authorities did not appear to have modified other domestic legislation relating to the rights of the child. She therefore wondered whether conflicts arose in that regard, and if so whether it was the Child Law or other domestic legislation that prevailed. Lastly,

she wished to know whether children had had an opportunity to participate in the seminars and other Convention-related meetings organized in Myanmar and whether they had been able to make their opinions known.

The meeting was suspended at 11.15 a.m. and resumed at 11.25 a.m.

25. U AYE (Myanmar), replying in the first place to Mr. Hammarberg's questions, said that it was true that his country had not acceded to any international human rights instruments other than the Convention. With specific regard to the International Covenant on Civil and Political Rights, the United Nations High Commissioner for Human Rights, Mr. Ayala Lasso, had brought up the question with representatives of Myanmar on many occasions. However, the delegation wished to point out that the Convention on the Rights of the Child was of cardinal importance because children constituted the country's future. For the moment, the authorities were working to establish a domestic legal framework, but when the time was ripe the issue of Myanmar's accession to the International Covenant on Civil and Political Rights would be addressed. It should also be noted that Myanmar was a member of WTO, the Conference on Disarmament and UNCTAD, and party to several other international instruments (on narcotic drugs, environmental protection, the nuclear test ban, etc.), which were of vital importance for mankind as a whole, including children. However, the Government was aware of the priority enjoyed by international human rights instruments.

26. In relation to the dialogue between the Myanmar authorities and representatives of the United Nations Secretary-General, it should be noted that talks had been held on a number of occasions in Myanmar, in Bangkok or at the United Nations, and that the State party intended to continue the process. Turning to the conclusions of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar and the resolution on Myanmar adopted by the Commission in 1996, he emphasized that his Government wished to improve the situation, but that it had been unable to accept certain aspects of the resolution in question. However, it had always made clear its wish to cooperate with the special rapporteurs and other United Nations institutions, and intended to continue such cooperation.

27. Turning to the question of budgetary resources, he pointed out that each Ministry in Myanmar had its own programme featuring measures of benefit to children, even if no budget allocations were specifically earmarked for children. According to data provided by the national statistical office, the budget for primary education (including monastic schools) for 1996-1997 was around 38.3 billion kyats (US$ 1 = 6 kyats). Teaching staff numbered 191,942 and pupils or students 6,226,000. Detailed statistics would be communicated to the Committee by the statistical office in due course.

28. In response to the question relating to the economic changes that had occurred in the country, he said that Myanmar was a country in transition towards democracy, moving from a single-party socialist State with centralized economic planning towards a pluralistic State with a market economy. The gap between rich and poor was constantly widening, and families in the remotest areas were the worst hit. The new Government had not yet achieved concrete results in those disadvantaged areas, but substantial sums had been allocated to combat poverty. Measures were also being taken to combat rebel movements

operating in those areas, and against drug traffickers. He added that the defence budget was not, as alleged, 150 times the size of the education and health budget, promising to furnish further details on the matter.

29. NGOs in Myanmar working in the field of the rights of the child were independent of the Government - examples were "Médecins du monde" and "Médecins sans frontières". The NGOs contacted the various ministries, particularly the Ministry of Social Planning, and implemented joint programmes. However, the Government endeavoured to avoid cooperating with NGOs engaged in political propaganda. All NGOs active in Myanmar had to be registered with the Government.

30. The CHAIRPERSON requested the delegation of Myanmar to reply to the specific questions that had been asked concerning the activities of the National Committee on the Rights of the Child. Did the Committee have a permanent secretariat and adequate financial and human resources?

31. U THAN PO (Myanmar) said that, under the direction and supervision of the National Committee on the Rights of the Child, 14 committees had been set up at State level and 56 at regional and district level to ensure the realization of the rights of the child. There were also plans to set up similar committees at the commune level. The main functions of the committees were to protect the rights of children and to apply the Child Law at the appropriate level. The National Committee on the Rights of the Child regularly held coordination meetings and reported to the Government on work carried out and decisions taken to enable the Government to decide on further action.

32. Local NGOs participated in activities to promote the rights of children, but participation by international NGOs such as Save the Children was at a very low level. Consequently, all proposals for technical assistance, assistance in training and resource inputs were welcome. UNICEF provided assistance which was very valuable, but limited (2 per cent of requirements where schools were concerned). Hence the Government encouraged NGOs and voluntary organizations to help the country to reach the targets set in the Convention on the Rights of the Child. In putting into effect the national plan of action drawn up in cooperation with UNICEF, the authorities ran up against a lack of resources, skilled personnel and technical assistance. A national committee for women's issues had been set up, and preparations were being made together with all ministries concerned for the ratification of the Convention on the Elimination of All Forms of Discrimination against Women.

33. Daw THAN THAN ZIN (Myanmar), replying to Mrs. Sardenberg, confirmed that Children's Day was celebrated on 13 January each year because it was the birthday of the former Head of State.

34. Mr. HAMMARBERG emphasized that it was vitally important for the Myanmar authorities to cooperate unreservedly with the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, and hoped that in future the Special Rapporteur would not be prevented from visiting the country. He also regretted that there were so few international NGOs active in Myanmar, which pointed to the difficulties they experienced there. As for national NGOs, he noted that they fell into two categories -

those which maintained close links with the authorities and could participate in various governmental programmes, and the others, whose activities were limited as a result of certain restrictions on the exercise of civil and political rights. Was greater relaxation planned in that field?

35. Mrs. SANTOS PAIS welcomed the fact that the Convention was the first human rights instrument ratified by Myanmar, but pointed out that the Convention acquired its full force only within the context of a global approach to human rights. Hence it was vital that the authorities should cooperate with the Representatives of the Secretary-General and the Special Rapporteur on the situation of human rights in Myanmar, who were partners of the Committee in its work. Furthermore, while the adoption of the Child Law constituted an initial step, it was regrettable that the Law did not fully reflect the provisions of the Convention, particularly in the areas of citizenship and freedom of association.

36. Referring to the various sections of the budget, she noted that 12 per cent of the country's budget was still earmarked for military expenditure, whereas the sectors of health, education and social welfare accounted for only 2 per cent, 5 per cent and 0.2 per cent of the total. Why was the military budget so high in a country where the internal situation was supposed to have been stabilized? If the Myanmar authorities so wished, the Committee could encourage international NGOs to work for the application of the Convention in the country, for example through training courses for law enforcement officials. Lastly, she requested a precise response to the question which had been raised concerning translation of the Convention into the different languages of Myanmar, its dissemination in the various regions of the country and its publication in a simplified version which was accessible to children.

37. Mr. MOMBESHORA sought additional information on the practical results of the application of the Convention, suggesting that, when the various programmes were being drawn up, the authorities should seek to limit any possible adverse impact those programmes might have in that area. He also drew attention to the importance of participation by children and young people in the activities of the various government bodies responsible for implementing the Convention.

38. Mr. KOLOSOV asked what measures had been taken to reduce any possible adverse effects on children of the period of political transition through which the country was currently passing. In his view it was vital that all legislative, administrative and financial decisions taken by governments should be analysed in terms of their possible impact on the most underpriviledged groups in the population. He also asked for further information on the reasons for the lack of technical assistance, which the delegation had referred to.

39. Mrs. BADRAN wished to know the precise duties of the National Committee on the Rights of the Child. On the subject of NGO participation, she expressed the wish that the authorities should not confine themselves to authorizing the presence of international NGOs in Myanmar, but should encourage their activities. At the same time, local NGOs could play a very important role by facilitating participation in public life by minorities and

ethnic groups. She also emphasized the need for precise annual planning of resources earmarked for child-related services, adding that in that area the Myanmar authorities could benefit from international assistance, particularly from UNICEF.

40. Mrs. SARDENBERG welcomed the Myanmar Government's intention to ratify the Convention on the Elimination of All Forms of Discrimination against Women. The application of the Convention, together with that of the Convention on the Rights of the Child, would enable a comprehensive approach to be taken to the problems of the family. As Myanmar was on the path towards democratic government, she wondered whether it would not be preferable for the holding of Children's Day to be tied to a less personal event than the former Head of State's birthday - perhaps a more relevant date in the field of children's rights, such as the date when Myanmar ratified the Convention.

The meeting rose at 1.05 p.m.

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COMMITTEE ON THE RIGHTS OF THE CHILD

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SUMMARY RECORD OF THE 358th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 15 January 1997, at 3 p.m.

Chairperson: Mr. HAMMARBERG
(Vice-Chairperson)

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CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Initial report of Myanmar (continued)

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GE.97-15096 (E)

In the absence of Mrs. Belembaogo, Mr. Hammarberg, Vice-Chairperson, took the Chair.

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Myanmar (continued) (CRC/C/8/Add.9 (English only); CRC/C/Q/Mya.1 (list of issues); written replies by the Government of Myanmar with no document symbol)

1. At the invitation of the Chairperson, the delegation of Myanmar resumed its place at the Committee table.

2. The CHAIRPERSON invited the members of the Committee to ask further questions concerning the section of the initial report of Myanmar (CRC/C/8/Add.9) entitled "General measures of implementation".

3. Mrs. KARP said she had received no answer to her questions concerning the status of the national and local committees on the child. Were they consultative, or decision-making bodies; were they allocated budgets; were they distributed throughout the country; and what was their relationship with the local Law and Order Restoration Councils? What three priority areas would the Myanmar authorities single out when applying for international technical assistance?

4. Mrs. EUFEMIO said she had received no answers to her three questions concerning the geographical distribution of non-governmental organizations (NGOs), on teamwork between NGOs and the authorities and on the inclusion of child development in training programmes.

5. She noted that a member of the Myanmar delegation had stated that about 4 million kyats had been allocated for social services, including child welfare services, in the 1995/96 budget, 1 million of which had been channelled into new child-care facilities. Three million kyats had thus not been accounted for. In connection with the financial constraints facing the Government, she asked what criteria were used in determining priorities among infrastructural programmes, and what indicators were used to evaluate the effectiveness of those programmes.

6. Miss MASON reiterated her request for clarification regarding the various levels of citizenship (full, associate and naturalized), to which she had received no response. The impression she had gained was that different levels of citizenship conferred differing levels of opportunity on children in areas such as health, education and linguistic rights. She also requested answers to her questions on the extent of children's participation in dissemination of awareness of the Convention, and on the relative status of the Child Law and the provisions of other laws in the event of a conflict between them.

7. The CHAIRPERSON invited the delegation of Myanmar to respond to the points raised regarding interaction between the representatives of United Nations bodies and the Myanmar authorities.

8. U AYE (Myanmar) said that his failure to reply to some of the questions asked by members was attributable to the fact that other members of the delegation were better qualified than himself to respond to certain questions.

9. While he did not see that the matter had any direct bearing on the rights of the child, he wished to point out that reference to the verbatim records of the fifty-first session of the General Assembly, and to the summary records of the Third Committee, would reveal that the Permanent Representative of Myanmar in New York had recently confirmed officially that ongoing relations between the authorities, the Special Representatives of the Secretary-General and the Special Rapporteur of the Commission on Human Rights existed in various areas.

10. While his Government dissociated itself from the resolution that had appointed a Special Rapporteur on the situation in Myanmar, which it regarded as unbalanced, it had always cooperated with the Commission. The previous Special Rapporteur had frequently visited Myanmar, and the current Special Rapporteur had been invited to do so at a mutually convenient time.

11. The CHAIRPERSON invited the delegation of Myanmar to reply to the questions relating to the national budget.

12. U DENZIL ABEL (Myanmar), responding to observations that the budgetary allocations for social welfare were low in comparison with the appropriations for defence, said that the transition to a free-market economy called for various adjustments. Thus, while defence expenditures set two to three years previously in response to high levels of insurgency were currently being reduced following cease-fire agreements, the Government was also having to establish priorities with a view to securing quick returns in dynamic sectors of the economy, thereby generating more resources for the social sector. In 1995/96, 6.4 per cent of the budget had been allocated to social services. Future budgets would be remodelled to take account of the projected needs.

13. Mrs. SANTOS PAIS said that allocations for the social sector were thus only about half of those earmarked for defence. The principle set forth in the Convention that the maximum available resources should be allocated to the social sector was thus not reflected in practice.

14. Mrs. KARP asked what proportion of the budget was allocated to the national and local committees on the rights of the child.

15. U AYE (Myanmar) said that his delegation had already undertaken to contact the Central Statistical Office with a view to providing the breakdown of figures that had been requested. More expenditure was undeniably needed in the social field, but the issue was not just one of income distribution, but also of income generation.

16. As for the "20-20 rule" to which members of the Committee had alluded, his delegation welcomed all such recommendations and would also benefit from the fruits of its interaction with other delegations, which it would transmit to the National Committee with a view to improving the situation in Myanmar.

17. Mrs. BADRAN said that the Myanmar authorities should bear in mind the fact that the social and economic sectors constituted an indivisible whole. Human resources were essential to the prosperity of the economic sector.

18. U AYE (Myanmar) said that his Government attached great importance to investment in human resources, within the limits imposed by financial and time constraints.

19. The CHAIRPERSON said that the Committee's message was that social expenditure on children was low. The "20-20 rule" was considered a reasonable level for social expenditure, and Myanmar's expenditure was at less than half that level. A recommendation in that regard would appear in the written conclusions.

20. He invited the delegation of Myanmar to respond to members' questions concerning NGOs.

21. U THAN PO (Myanmar) said he would try to respond to the questions concerning NGOs and to other questions raised at the previous meeting. No separate secretariat existed to service the National Committee on the Rights of the Child; that task was carried out by the Department of Social Welfare, which was allocated a budget for the purpose. In order to implement the provisions of the Child Law, 139 provision officers and 78 voluntary provision officers had been trained in 1995 and 1996, in addition to staff in primary schools and day-care centres. More social workers could be trained if further international assistance became available.

22. Between 1993 and 1996, 2,678 cases of children in need of protection had been referred to the Director-General of the Department of Social Welfare for approval. Of those cases, 655 had been returned to their families; the rest had been placed in institutions, where they were receiving formal education and vocational training.

23. The minimum age for participation in military activities was 18 years of age, or 16 in the case of the Red Cross Brigade. Information on the Child Law had been translated into six of the country's indigenous languages. Dissemination posed a problem, however, given that the country had no fewer than 135 ethnic groups. Plans to disseminate information on children's rights had been discussed with the relevant ministries and with the United Nations Children's Fund (UNICEF), and it had been agreed to use the Committee's recommendations at its current session as a basis for action in that regard.

24. The National Committee on the Rights of the Child was presided over by the Minister of Social Welfare, and its members included senior officials from many areas of the administration, as well as representatives of NGOs and of the private sector. As yet, there had been no opportunity to evaluate the work of that Committee. Law and Order Restoration Councils at district and township levels were authorized by the State Law and Order Restoration Council (SLORC) to take action to implement children's rights.

25. International NGOs wishing to provide assistance could submit their proposals to the relevant ministry through the Ministry of Planning. If those proposals were deemed to be in the national interest, the NGO would then be authorized to cooperate with the relevant ministry.

26. So far there was no provision for a dialogue between children and the Government. However, radio and television talk shows were envisaged for the future.

27. Myanmar sorely needed technical assistance to help and advise on the subject of disabled children, their rehabilitation and education.

28. In response to the question of how social changes had mirrored economic changes in the country, he said that a number of NGOs had helped establish night schools and youth centres which were run on a voluntary basis and catered for children who had to work during the day.

29. The CHAIRPERSON asked for further clarification as to whether the National Committee on the Rights of the Child was a decision-making or advisory body.

30. U THAN PO (Myanmar) said that the National Committee was the highest body in the land dealing with the rights of the child. Its Chairman, who was also a Government Minister, could decide on some of its policies or, in the event of a complex issue, could seek the advice and approval of the Cabinet.

31. Mr. MOMBESHORA asked if children were involved in the functioning of the National Committee.

32. Mrs. SANTOS PAIS inquired about the degree of success of the work of the National Committee in terms of its coordination, guidance and reporting functions. She had heard it stated that only 25 per cent of children were actually being reached by Government policies and that the national plan of action was not fully operational. She therefore asked how the Government received feedback from local authorities; how disparities in the coverage of children in different regions were being overcome; how the necessary resources were allocated to local levels and how far the National Committee was able to make a difference to the lives of children at the sub-regional level.

33. Mrs. KARP suggested that concrete examples of decisions reached by the National Committee and of issues it had referred to the executive should be given, together with instances of action it had taken as a result of feedback from townships and local authorities.

34. U AYE (Myanmar) said that the structure of the National Committee did not provide for the participation of children.

35. Mr. MOMBESHORA said that reports indicated that there was a lack of communication between student and children's groups and the authorities. The Convention specifically provided that children should have the right to make their views known, and the National Committee would appear to be the ideal vehicle to enable them to exercise that right.

36. U THAN PO (Myanmar) said that there was direct contact between the National Committee and other committees working at a lower level on children's issues, and the National Committee was at liberty to turn to the Government for advice or information.

37. One example of the kinds of decisions taken by the National Committee was its ruling that, in one specific case, the judgement and punishment handed down by a court on a child should be overturned.

38. Mrs. SARDENBERG said that she was still not clear as to whether the National Committee was competent to formulate policies or simply to monitor their implementation or whether it operated on a multi sectoral basis.

39. U AYE (Myanmar) said that the structure of the National Committee, which was basically a coordinating body, was such that there were representatives of all ministries and departments of relevance to children. They were thus part of the decision-making process and able to ensure that policies were duly noted in their respective fields of competence.

40. Mrs. KARP expressed concern at the power of the National Committee to overturn a court decision, which raised the question of the independence of the courts.

41. U AYE (Myanmar) said that the court case referred to had involved only a minor transgression on the part of the child. The decision had been overruled because it had been clear that the judge in question was not familiar with the provisions of the Child Law. If there were any doubts about a judgement in a case of a serious crime, the advice of the Cabinet would have to be sought and it would be out of the hands of the National Committee.

42. U SANN MAUNG (Myanmar) said that, after Myanmar became party to the Convention on the Rights of the Child, it had begun the process of amending or repealing legislation that was not in line with the Convention's provisions or drafting new instruments, one of which was the Child Law.

43. Miss MASON said that, as she understood it, where there was a conflict in domestic legislation between the Child Law and the Penal Code, it was the Penal Code that would prevail.

44. U AYE (Myanmar) said that, in any such conflict, the Child Law would be applied and respected. However, that scenario had never arisen.

45. Mrs. SANTOS PAIS asked what would happen in the event of a conflict between the provisions of the Convention and the Child Law. She also asked for clarification as to how the provisions of the Convention would be applied to cover areas that were not dealt with in domestic legislation, such as the prohibition of torture, which was clearly stated in the Convention but not in the Penal Code of Myanmar.

46. U AYE (Myanmar) said that, if lower court decisions conflicted with the provisions of the Child Law or the Convention, appeals could be made to the higher courts.

47. In response to a question from Mr. KOLOSOV, he said that the Child Law contained a provision making it clear that, in any conflict between various instruments of domestic legislation, the Child Law would prevail.

48. Mrs. KARP said that, further to a question she had asked at the previous meeting, it appeared that schoolchildren could not form associations, so that their freedom of association, in accordance with article 15 of the Convention, was restricted. She wondered whether schoolchildren who formed associations were prosecuted or whether the Convention and the Child Law prevailed.

49. U HLA BU (Myanmar) said that applications to form associations must be submitted to the Home Department. Many schools had, for example, Red Cross associations, under the patronage of the head teacher.

50. The CHAIRPERSON said that, although Mr. Kolosov had been informed that the Child Law prevailed over other domestic legislation, it seemed that that was not so in respect of freedom of association.

51. U AYE (Myanmar) said that, if the proposed association did not violate the relevant regulations, then the Home Department would authorize it. If the association had nothing to do with children's affairs, however, then the question of the underlying motives of its formation arose and whether, in actual fact, the initiative was being taken by adults. In such cases, the Child Law would not apply.

52. The CHAIRPERSON, referring to a question asked by Miss Mason, said that the Citizenship Law divided citizens into three categories. He would like to know what the impact of that arrangement on children was.

53. U SANN MAUNG (Myanmar) said that the three categories of full citizen, associate citizen and naturalized citizen had been established by the 1982 Citizenship Law, which also specified the criteria for admission to each category. Applications for citizenship were considered by a three-man committee of officials of the Home Department and the Ministries of Defence and Foreign Affairs. All three categories of citizenship carried equal rights and privileges except in two respects: associate and naturalized citizens could vote in elections but could not stand for office and their citizenship could be revoked, whereas full citizenship could not. Members of Myanmar's 135 ethnic groups were all regarded as full citizens.

54. Mrs. SANTOS PAIS said that the categorization of citizenship seemed to reopen the question as to which legislation prevailed, since it clearly implied the possibility of discrimination. She would like to have more information about the differences in the rights enjoyed by the three categories of citizen. For example, were citizens in all three categories entitled to own property and make use of the social services?

55. U AYE (Myanmar) said that all citizens could own property and had equal access to services.

56. Mrs. SANTOS PAIS said that she understood that, in order to qualify for full citizenship, a person had to prove that one of his ancestors had lived in Myanmar prior to 1823. She would like to know the exact qualifications for

full citizenship and the nature of the document which certified its possession. If identity cards were used, what were the conditions regulating their issue and were there any differences in treatment according to the status established by the cards, for example, could citizens of all categories move freely about the country?

57. The CHAIRPERSON said that he could not understand the need for the three categories of citizenship. The Committee obviously wanted a clear picture of the significance of the distinction, especially in so far as it affected children. There was no doubt that such categorization could lead to discrimination.

58. Mrs. SARDENBERG asked whether identity cards were issued to children and whether there were any differences between the categories of citizenship with respect to access to such services as health and education.

59. U SANN MAUNG (Myanmar) said that identity cards were, in fact, used. They were issued to children at age 12. All citizens could move freely about the country and had equal access to social services.

60. Mrs. SANTOS PAIS said that, if there were no differences, she could not understand why there had to be three categories.

61. U SANN MAUNG (Myanmar) said that the law had been enacted by the previous Government, and he was not sure what its purpose had been. There were some differences between the categories, as had already been pointed out.

62. U AYE (Myanmar) said that all countries had citizens and non-citizens who enjoyed different rights. In Myanmar, the second and third categories were entitled to apply for full citizenship.

63. The CHAIRPERSON said that the statement in paragraph 57 (b), of the initial report that, according to the Myanmar Citizenship Law "there is hardly a chance for a child to be stateless or to be deprived of his nationality" apparently indicated that many different possibilities had been covered. Nevertheless, the Committee seemed to feel that such categorization lent itself to discrimination. Were there, in fact, any stateless children in Myanmar? The Committee had been informed that many of the returnees from Bangladesh had had difficulty in securing even the third category of citizenship, so there might well be some such children.

64. U AYE (Myanmar) said that any returnee who could not prove Myanmar or some other nationality was accorded foreigner status. All children born in Myanmar were entitled to one of the categories of citizenship. It was, of course, necessary to establish the bona fides of returnees. In Myanmar, every household had to maintain a list of residents. The lists were submitted to the local authorities, which issued registration cards to the residents. However, many persons in the first wave of returnees had been unable to produce evidence of such household registration.

65. The authorities had adopted a very flexible approach but had required undocumented persons to give information concerning their village of origin,

the name of the headman, etc. If they could provide such information, they were admitted. In many cases, in fact, even people who could not prove any local connection were also admitted.

66. During the second wave, the Myanmar authorities, in conjunction with the United Nations High Commissioner for Refugees (UNHCR), had entered into negotiations with the neighbouring countries concerning the status of the returnees. Those who could not prove a local connection were refused admittance. Children and adults had received equal treatment.

67. The CHAIRPERSON said that the Committee had been informed that many persons in the second wave of refugees who had been admitted to Myanmar were still experiencing great difficulty in obtaining citizenship.

68. U AYE (Myanmar) said that the problem had not yet been fully resolved.

69. Mrs. KARP said that it seemed to her that a person who had been born and brought up in Myanmar but could not secure full citizenship because he could not prove some technical detail about his ancestors might well feel that his rights and sense of identity were impaired. The impact of such a situation on children, amounted to a violation of the Convention.

70. U AYE (Myanmar) said that the authorities did adopt a flexible approach, but a line had to be drawn somewhere. Myanmar had borders with five other countries, with all of which it maintained excellent relations but which included the two most populous countries in the world. It could not afford to grant citizenship to everyone who came and asked for it. The Citizenship Law took into account the need to protect the interests of future generations - the need to contain the population.

71. Mr. KOLOSOV said he presumed that the essential difference between the three categories of citizenship was connected with property and inheritance rights.

72. Mrs. SANTOS PAIS said that, while it was not the responsibility of the Committee to question the conditions laid down by a State for the granting of nationality, it had to assess the extent to which such conditions were in conformity with the provisions of the Convention. Under the Convention, every child had the right to acquire a nationality. The Committee had been informed, however, that, in Myanmar, associate and naturalized citizenship could be withdrawn, thereby entailing the risk of statelessness - hence its concern.

73. Furthermore, she was aware that a system of identity cards had been in place in Myanmar since 1990. Such cards were not issued automatically but upon request, and applicants had to meet certain conditions. She was particularly concerned at the fact that the identity card contained information regarding religion and ethnic origin, which could easily lead to discrimination.

74. The CHAIRPERSON, reverting to the subject of the returnees, said that there was no question of a massive influx into Myanmar from neighbouring countries. A group of people, who were well known to the Myanmar authorities,

had returned to Myanmar from Bangladesh. The Committee's concern was that a high proportion of the returnees, including children, had apparently encountered difficulties in resettling in Myanmar and having their rights recognized.

75. U. AYE (Myanmar) said that that was precisely the type of concern which had been taken up by UNHCR with the Myanmar immigration authorities at a meeting held recently in Geneva. He was not, himself, in a position to provide detailed information, but the UNHCR staff members who had been directly involved might possibly be of assistance.

76. The CHAIRPERSON invited the members of the Committee to ask questions concerning the section of the initial report entitled "Definition of the child".

77. Mr. KOLOSOV said that sections 2 (a) and 2 (b) of the Child Law defined persons under and over the age of 16 as "children" and "youth" respectively, but there was only one further reference to "youth" in its subsequent provisions. The law was thus not in keeping with the provisions of the Convention, since it afforded no protection for children between the ages of 16 and 18, and should be amended.

78. Mrs. KARP said that, under the Law, persons who allowed a girl child in their care under the age of 16 to engage in prostitution were liable to punishment. She wondered why the age limit for protection in such cases was 16 rather than 18 and why there was no reference to the boy child.

79. U. AYE (Myanmar) said that children up to the age of 18 were protected by law, as borne out by the very title of the legislation in question. A distinction was drawn between children and youths for the purposes of placement in institutions. Boys and girls were afforded the same protection against social evils such as prostitution.

80. Mrs. KARP said that section 66 of the Child Law referred specifically to the responsibility of a guardian towards a girl under 16 who was involved in prostitution. How could that be seen as providing protection for boys also?

81. U. AYE (Myanmar) said that prostitution had previously been considered as affecting girls only, but it had since been recognized that boys could also be victims and thus needed protection.

82. U. THAN PO (Myanmar) said that, when the Child Law had been drafted, prostitution of boys had been far less common than in recent times. The point was a valid one and would be taken into account when the implementing regulations for the Child Law were being prepared.

83. U. AYE (Myanmar) said that his Government would welcome the Committee's advice concerning improvements that could be made, particularly with regard to the distinction between children and young people. there must be other States parties to the Convention where the age of majority was 16 and it would be useful to learn how they reconciled their legislation with the provisions of the Convention.

84. The CHAIRPERSON said that he would prefer not to enter into a discussion of the very complex issue of the age of majority and how it could be reconciled with the provisions of the Convention. Individual members of the Committee would, however, be happy to give the Myanmar delegation some advice on the matter outside the meeting.

85. Mrs. SANTOS PAIS said it was very important to afford children up to the age of 18 the best possible protection against forms of exploitation such as prostitution. She was also gravely concerned about the very low age of criminal responsibility, whereby a child between the age of 7 and 12 who was deemed to have understood that he or she had committed an offence was liable to the penalties normally applied to adults. Myanmar should consider raising the age of criminal responsibility to the age of civil majority, as recommended in "The Beijing Rules".

86. U. AYE (Myanmar) said that those suggestions would be conveyed to the competent authorities in his country.

87. Mr. KOLOSOV said he had to insist that Myanmar's Child Law was not in keeping with the provisions of the Convention and must be amended. He rejected the assertion that all children were guaranteed adequate protection by the title of the law, despite the distinction drawn between youths and children. The existence of such a distinction effectively excluded children between the ages of 16 and 18 from the protection of the Law and, consequently, of the Convention.

88. The CHAIRPERSON invited the members of the Committee to ask questions concerning the section of the initial report entitled "General principles".

89. Mrs. BADRAN said that mention was made in Myanmar's written replies of services provided by the authorities to certain groups of the population as a means of preventing and eliminating discrimination. Since prejudice was usually a question of attitude, however, she wondered whether there were any other programmes aimed at changing discriminatory attitudes towards the groups of children listed under item 10 of the list of issues (CRC/C/Q/Mya.1).

90. Mrs. SANTOS PAIS said that Myanmar's legislation did not fully reflect article 2 of the Convention since it made no reference to discrimination on grounds of national, ethnic or social origin or of political or other opinion held by the child or his or her parents or legal guardians. How was a child protected against penalties when the views expressed by members of his or her family ran counter to those of the authorities?

91. She would welcome some information on the action being taken to ensure equal opportunities for children living in the rural areas, especially with regard to education. Were additional funds earmarked for that purpose? Were school materials available free of charge? How were ethnic languages used in schools in Myanmar and were teachers given material and other support in that connection?

92. She would like the delegation to give some illustrations of the way in which the best interests of the child were taken into account in the courts of

law, in schools and in the family environment and to inform the Committee how the legislative bodies reflected the best interests of the child when drafting or amending legislation.

93. Mrs. KARP said she would welcome examples of legislation that required the courts and administrative bodies to hear the views of children before taking decisions affecting them, together with details of how such legislation was implemented. Who acted on behalf of the child, for instance?

94. Mrs. SARDENBERG asked what opportunity children had to participate in discussions, and decisions on matters affecting them, both in the family environment and in the schools. Moreover, with respect to the schools, she would like to have further information on corporal punishment and expulsion.

95. Mrs. BADRAN said she had received the impression from the report and the written replies that the whole concept of the participation of children was unclear to the Myanmar authorities. For instance, reference had been made in the written replies to activities being assigned to children. The whole point was that children should have a say in their own affairs by planning their own activities and setting up their own associations so that they could express their views both individually and collectively. That was an important preparation for life in a democratic society.

96. The CHAIRPERSON said that the Committee was clearly behind schedule in its work but it nevertheless appreciated the efforts of the Myanmar delegation to answer the many detailed questions that had been asked, particularly in view of the language difficulties encountered. He hoped that it would be possible to complete the dialogue in the time available.

The meeting rose at 6.05 p.m.